

Commonwealth of Massachusetts
MIDDLESEX SUPERIOR COURT
Case Summary
Civil Docket

MICV2004-01307
Desrochers v Piendak, Town Manager et al

File Date	03/31/2004	Status	Disposed: transferred to other court (dtrans)	
Status Date	05/11/2004	Session	L - Cv time-stan 1 (Lowell)	
Origin	1	Case Type	B22 - Employment Discrimination	
Lead Case		Track	F	

Service	06/29/2004	Answer	08/28/2004	Rule12/19/20	08/28/2004
Rule 15	08/28/2004	Discovery	01/25/2005	Rule 56	02/24/2005
Final PTC	03/26/2005	Disposition	05/25/2005	Jury Trial	Yes

PARTIES

Plaintiff
Tracey Desrochers
53 Brissette Street
Active 03/31/2004

Private Counsel 181330
David T Fulmer
576 Main Street
Winchester, MA 01890
Phone: 781-721-2111
Fax: 781-756-0030
Active 03/31/2004 Notify

Defendant
Dennis E. Piendak, Town Manager
Service pending 03/31/2004

Private Counsel 566522
John J Cloherty III
Pierce Davis & Perritano
10 Winthrop Square
5th floor
Boston, MA 02110-1264
Phone: 617-350-0950
Fax: 617-350-7760
Active 04/23/2004 Notify

Defendant
Leo Gaudette, Fire Chief
Service pending 03/31/2004

Defendant
Town Of Dracut
Town Clerk
62 Arlington St.
Dracut, MA 01826
Served (answr pending) 04/09/2004

ENTRIES

Date	Paper	Text
03/31/2004	1.0	Complaint & civil action cover sheet filed
03/31/2004		Origin 1, Type B22, Track F.

Commonwealth of Massachusetts
MIDDLESEX SUPERIOR COURT
Case Summary
Civil Docket

MICV2004-01307
Desrochers v Piendak, Town Manager et al

Date	Paper	Text
04/09/2004	2.0	SERVICE RETURNED (summons): Town Of Dracut, service made on April 05, 2004 (agent in charge service)
04/27/2004		Pleading, Notice of Removal to U.S. District Court, returned to John J Cloherty III, Esq.: The Court requires the original stamped copy from U.S. District Court.
05/11/2004	3.0	Case REMOVED this date to US District Court of Massachusetts

EVENTS

NOTICE: JURY, et.

Commonwealth of Massachusetts

SUPERIOR COURT DEPARTMENT OF THE TRIAL COURT

in testimony that the foregoing is a true copy on file and of record made by photographic process. I hereunto set my hand and affix the seal of said Superior Court this 11th day of May 2004.

Charles M. Corrado
Deputy Assistant Clerk

Commonwealth of Massachusetts

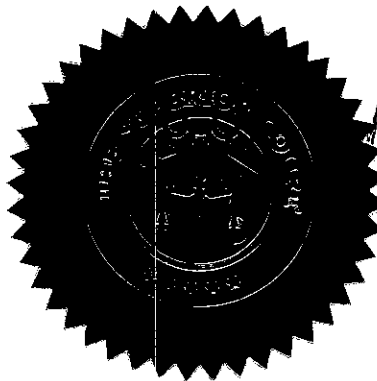
County of Middlesex

The Superior Court

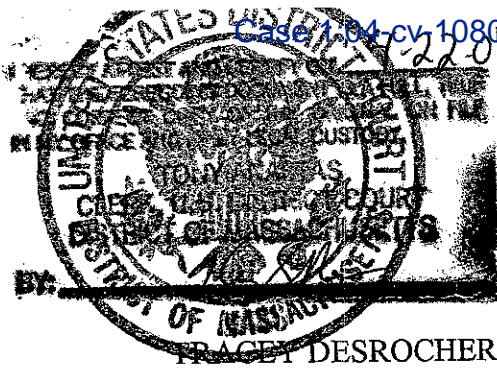
MASSACHUSETTS
SUPERIOR COURT
COUNTY OF MIDDLESEX
FILED
MAY 17 2004
CLERK OF COURT

I, Michael Brennan, Assistant Clerk of the Superior Court of the Commonwealth of Massachusetts within and for said County of Middlesex, do certify that the papers hereto annexed are true pleadings in case No. **MICV2004-01307** entered in the Superior Court on **03/31/2004**.

IN TESTIMONY WHEREOF, I hereunto set my hand and
affix the seal of said Superior Court,
at said Lowell
this 11th day of May, in the year of our
Lord 2004

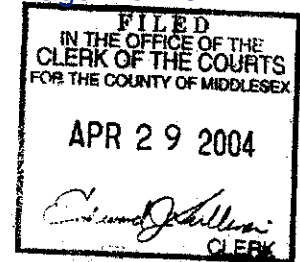


Michael M. Brennan
Asst. Clerk Magistrate



3

UNITED STATES DISTRICT COURT
COMMONWEALTH OF MASSACHUSETTS



FRACEY DESROCHERS,
Plaintiff

04 - 10806 RWZ

v.

C.A. No. _____

DENNIS E. PIENDAK, Town Manager,
and LEO GAUDETTE, Fire Chief for
the TOWN OF DRACUT, on behalf
of the TOWN OF DRACUT,
Defendants

NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. §1441(a)

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS:

Petitioners, Dennis Piendak, Leo Gaudette, and the Town of Dracut, respectfully petition this Court for removal of the above-entitled action to the United States District Court for the District of Massachusetts, Civil Section, from the Superior Court of the Commonwealth of Massachusetts in and for Middlesex County, and for their Notice of Removal state as follows:

1. Dennis Piendak, Leo Gaudette, and the Town of Dracut, are named as defendants by the plaintiff, Tracey Desrochers, in a civil action filed in the Superior Court of the Commonwealth of Massachusetts in and for Middlesex County, entitled Tracey Desrochers v. Dennis E. Piendak, Town Manager and Leo Gaudette, Fire Chief for the Town of Dracut, on behalf of the Town of Dracut, Civil Action No. 04-13073L. On April 2, 2004, the defendant, the Town of Dracut, was served with a Summons and a copy of plaintiff's original Complaint. See Summons attached hereto as Exhibit "A." The defendant has not yet answered the original Complaint, nor has an

appearance been filed on Defendants' behalf.

2. This is a suit of a wholly civil nature brought in a Massachusetts state court. The action is pending in Middlesex County, Massachusetts, and, accordingly, under 28 U.S.C. §§101 & 1441(a), the United States District Court for the District of Massachusetts is the proper forum for removal.
3. This is an action in which the plaintiff alleges, among other things, that the defendants, Town of Dracut, Town Manager Dennis Piendak, and Fire Chief Leo Gaudette, discriminated against plaintiff in violation of Title VII and the U.S. Constitution.
4. Because this case involves federal constitutional issues and claims for relief under federal law, the District Court has original jurisdiction pursuant to 28 U.S.C. §1331.
5. The defendants are filing this Notice within thirty days of service of the Summons and original Complaint upon the Town of Dracut, within thirty days of the date this case became removable, and within the time for filing this petition. See 28 U.S.C. §1446.
6. The defendants will file a Notice of Filing of this Notice of Removal and a copy of this Notice of Removal with the Clerk of the Superior Court of Massachusetts, County of Middlesex.
7. Pursuant to Local Rule 81.1(a), the petitioners shall request of the Clerk of the Superior Court of Massachusetts, County of Middlesex, certified or attested copies of all records and proceedings in the state court and certified or attested copies of all docket entries therein, and shall file the same with this Court within thirty days after

the filing of this Notice of Removal.

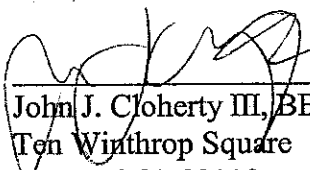
8. All defendants named in plaintiff's Complaint join in and consent to this Notice of Removal.

WHEREFORE, petitioners, Dennis Piendak, Leo Gaudette, and the Town of Dracut, pray that the above action now pending in the Superior Court of the Commonwealth of Massachusetts in and for Middlesex County be removed from that Court to this United States District Court.

Respectfully submitted,

The Defendants,
DENNIS E. PIENDAK, Town Manager and
LEO GAUDETTE, Fire Chief for the Town of
Dracut, on behalf of the TOWN OF DRACUT,
By their attorneys,

PIERCE, DAVIS & PERRITANO, LLP

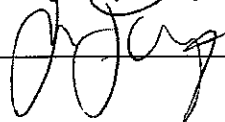


John J. Cioherty III, BBO#566522
Ten Winthrop Square
Boston, MA 02110
(617) 350-0950

CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of the above document was served upon each attorney of record, or pro se litigant, by mail/by hand.

4/22/04
Date



TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED: —
 TORT — MOTOR VEHICLE TORT — CONTRACT —
 EQUITABLE RELIEF — OTHER

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX

[seal]

TRACEY DESROCHERS, Plaintiff(s)

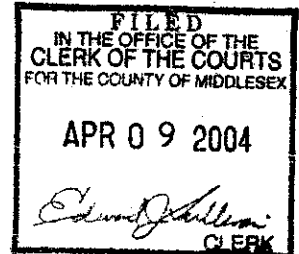
v.

TOWN OF DRACUT, Defendant(s)

SUPERIOR COURT
 DEPARTMENT
 OF THE
 TRIAL COURT
 CIVIL ACTION

No.

04-1307 L



SUMMONS

To the above-named Defendant:

You are hereby summoned and required to serve upon DAVID T. FULMER, ESQ.,
 plaintiff's attorney, whose address is 576 MAIN STREET,
 WINCHESTER, MA 01890, an answer to the complaint which is herewith
 served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you
 fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also
 required to file your answer to the complaint in the office of the Clerk of this court at 360 GORHAM STREET
 LOWELL, MA 01852 either before service upon plaintiff's attorney or within a
 reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may
 have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's
 claim or you will thereafter be barred from making such claim in any other action.

Witness, Suzanne V. DeVecchio, Esquire, at CAMBRIDGE
 the 31st day of MARCH
 in the year of our Lord 2004

Edward J. Sullivan
 Clerk

NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all such defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

NOTICE TO DEFENDANT — You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.



Middlesex Sheriff's Office • Civil Process Division, P.O. Box 7135, Lowell, MA 01852-0135 • (978) 452-3221

Middlesex, ss.

April 5, 2004

I hereby certify and return that on 4/2/2004 at 3:40PM I served a true and attested copy of the SUMMONS, VERIFIED COMPLAINT, CIVIL ACTION COVER SHEET in this action in the following manner: To wit, by delivering in hand to MS. CARVER, agent, person in charge at the time of service for TOWN OF DRACUT, at TOWN CLERK, 62 ARLINGTON Street, DRACUT, MA 01826. Attest (\$5.00), Basic Service Fee (\$30.00), Conveyance (\$1.20), Postage and Handling (\$1.00), Travel (\$3.20) Total Charges \$40.40

Desard Whitman

Deputy Sheriff

Dated:

N.B. TO PROCESS SERVER:

PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN THIS BOX ON THE ORIGINAL AND ON COPY SERVED ON DEFENDANT.

(.....)
 (..... 4.2.04)
 (.....)

COMMONWEALTH OF MASSACHUSETTS

SUPERIOR COURT
 DEPARTMENT
 OF THE
 TRIAL COURT
 CIVIL ACTION
 No.

MIDDLESEX, ss.

....., Piff.

v.

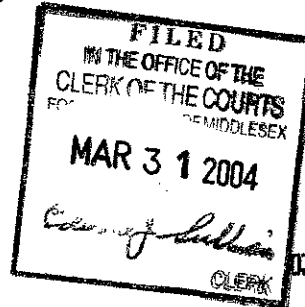
....., Deft.

SUMMONS
 (Mass. R. Civ. P. 4)

04011272

MIDDLESEX, SS
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT
DEPARTMENT OF THE
TRIAL COURT
C. A. NO.: 04-1306

PATRICIA LONERGAN,)
EXECUTRIX OF THE ESTATE)
OF RICHARD LONERGAN,)
PLAINTIFF)
VS.)
CATHERINE R. DENTREMONT,)
DEFENDANT)



03/31/04 13:26#0000 5287 CLERK A
CIVIL 240.00
SURCHARGE 15.00
SECC 20.00
SUMMONS 5.00
041306 #
SUBTTL 280.00
TOTAL 280.00
CHECK 280.00

COMPLAINT AND CLAIM OF TRIAL BY JURY

PARTIES

1. The plaintiff, Patricia A. Lonergan, is a resident of Billerica, County of Middlesex, Massachusetts and is the duly appointed Executrix of the Estate of her late husband, Richard Lonergan..
2. The defendant, Catherine R. Dentremont, is a resident of Lexington, County of Middlesex, Massachusetts.

FACTUAL ALLEGATIONS

3. On or about November 18, 2003, the plaintiff's decedent, Richard Lonergan, was a pedestrian, crossing Massachusetts Avenue, in a crosswalk, in Lexington, Massachusetts and was at all times in the exercise of due care.
4. At the same time and place, the defendant, Catherine R. Dentremont, so negligently and carelessly operated a motor vehicle that it was caused to strike the plaintiff's decedent, Richard Lonergan, while he was walking across Massachusetts Avenue in the crosswalk.
5. As a result of being struck by the defendant's vehicle, the plaintiff's decedent was thrown down and injured, underwent conscious pain and suffering and ultimately died from his injuries.

CLAIMS FOR RELIEF

COUNT I

(WRONGFUL DEATH VS. CATHERINE R. DENTREMONT)

6. The plaintiff repeats the averments contained in paragraphs one through five of the Complaint and incorporates them herein by reference as if set forth word for word.
7. This claim is brought on behalf of the heirs at law and next of kin of the plaintiff's decedent, Richard Lonergan, for damages due to the wrongful death of the plaintiff's decedent caused by the negligence of the defendant, Catherine R. Dentremont.

Wherefore, the plaintiff demands judgment against the defendant for all damages due to the wrongful death of the plaintiff's decedent, Richard Lonergan, caused by the defendant's negligence.

COUNT II

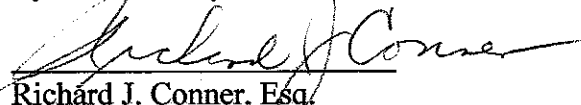
(CONSCIOUS PAIN AND SUFFERING VS. CATHERINE R. DENTREMONT)

8. The plaintiff repeats the averments contained in paragraphs one through five of the Complaint and incorporates them herein by reference as if set forth word for word.
9. This claim is brought for the conscious pain and suffering of the plaintiff's decedent, Richard Lonergan, caused by the negligence of the defendant, Catherine R. Dentremont.

Wherefore, the plaintiff demands judgment against the defendant for all damages due to the conscious pain and suffering of the plaintiff's decedent, Richard Lonergan, caused by the defendant's negligence.

**THE PLAINTIFF CLAIMS TRIAL BY JURY
AS TO ALL ISSUES RAISED IN THE COMPLAINT.**

By Her Attorney,



Richard J. Conner, Esq.
Law Offices of Richard J. Conner
424 Adams Street
Milton, MA 02186
(617) 698-6767
BBO No.: 094860